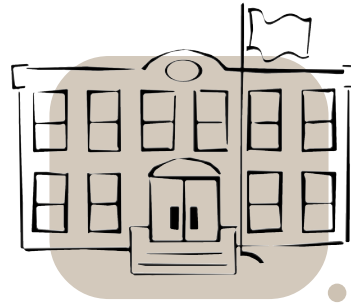




# Sales Tax Information for Public and Private and Elementary and Secondary Schools

### Utah State Tax Commission

210 North 1950 West  
Salt Lake City, Utah 84134  
(801) 297-2200  
1-800-662-4335  
[www.tax.utah.gov](http://www.tax.utah.gov)



*If you need an accommodation under the Americans with Disabilities Act, contact the Tax Commission at (801) 297-3811, or TDD (801) 297-2020. Please allow three working days for a response.*

## Contents

Sales and Use Tax General Information .....	2	Calculating Sales Tax .....	6
Introduction .....	2	Definitions .....	6
Utah Tax Code .....	2	Taxes or Fees Imposed on the Seller .....	6
What is Sales and Use Tax? .....	2	Determining Tax Base .....	6
Sales Tax .....	2	Taxable Sales .....	6
Use Tax .....	2	Determining Tax Rate (Sourcing) .....	8
Streamlined Sales Tax .....	2	Tax Rate Changes .....	9
Filing and Reporting Requirements .....	2	Sales and Use Tax Exemptions .....	9
Sales Tax License .....	2	Entity-based Exemptions .....	9
How To Close a Sales Tax Account .....	2	Use-based Exemptions .....	10
How To Close an Outlet .....	2	Product-based Exemptions .....	10
Notification of Liability .....	2	Additional Information .....	11
Filing Requirements .....	3	Goods Consumed by the Seller .....	11
Returns .....	3	Coupons and Rebates .....	11
Nexus Filers .....	3	Premiums and Gifts .....	11
EFT .....	3	Returned Merchandise .....	11
Seller Discount .....	3	Returned Checks and Bad Debts .....	12
Penalties .....	3	Delivery Charges .....	12
Interest .....	3	Special Events .....	12
Refund .....	3	Vending Machine Sales .....	12
Record Keeping Requirements .....	3	Returnable Containers .....	12
From Tax Commission Rule R865-19S-22 .....	3	Food Stamps and WIC .....	12
Reminders .....	4	Videos and DVD's .....	12
Sales-based Tax Types .....	4	Newspapers and Postage .....	12
Combined Rate Sales Tax .....	4	Money Orders, Faxes and Photocopies .....	12
State Sales and Use Tax .....	4	Cigarettes and Tobacco Products .....	12
Local Option Sales and Use Tax .....	4	Specific Information for Public and Private	
County Option Sales and Use Tax .....	4	Elementary and Secondary Schools .....	13
Resort Communities Tax .....	4	Definitions .....	13
Rural Health Care Facilities Tax .....	4	School .....	13
Public Transit Tax .....	4	Who Must Pay or Collect Sales Tax? .....	13
Highways Tax .....	4	Public Schools .....	13
Recreational Facilities and Botanical,		Private Schools .....	13
Cultural, and Zoological Organizations Tax .....	4	PTA .....	13
Town Option Sales and Use Tax .....	5	Sales Tax License .....	13
Related Taxes and Fees .....	5	What's Taxable and What's Not .....	13
Tourism Tax .....	5	Taxable Transactions .....	13
Motor Vehicle Rental Tax .....	5	Non-Taxable Transactions .....	14
Transient Room Tax .....	5	Purchases of Construction Materials by Public Schools .....	15
Municipality Transient Room Taxes .....	5	Agencies .....	16
Waste Tire Recycling Fee .....	5	Forms .....	16
Other Information .....	6	Internet Information .....	16
		State of Utah Web Site .....	16
		Tax Commission Web Site .....	16

# Sales and Use Tax General Information

## Introduction

This publication is a general guide. It provides basic information, but is not all-inclusive. Future changes to the laws or rules will supercede information in this document.

## Utah Tax Code

Utah Tax Code is officially published by Matthew Bender & Co, Inc. under the trademark LexisNexis. This publication includes Utah tax law and administrative rules written by the Utah State Tax Commission. The online site requires a subscription fee to access its services. However, individuals or businesses may contact the publisher directly to order a hardcopy at:

Matthew Bender & Co., Inc.  
Attn: Customer Support  
1275 Broadway  
Albany, NY 12204-2694  
1-800-562-1197

Utah Code, Title 59, Revenue and Taxation, is available free of charge at the [Utah State Legislature Home Page](#). The state makes every effort to retain current information; however, published code found at LexisNexis may be more current than the information found at this site.

## What is Sales and Use Tax?

### Sales Tax

Sales tax is a tax on the retail sale or lease of all tangible personal property sold and certain services provided. Sales tax is collected by a Utah licensed retailer or seller, and is paid to the Tax Commission on monthly, quarterly, or annual tax returns. For more specific information, refer to Utah Code §59-12-103 and Administrative Rules R865-12L, R865-19S, and R865-21U.

### Use Tax

Use tax is a tax on amounts paid or charged for purchases of tangible personal property and certain services where sales tax was due but not charged. The purchaser remits use tax directly to the Tax Commission. Examples of activities that trigger use tax liabilities include withdrawals of items from resale inventories and other consumption of goods or services purchased tax free.

Use tax must be accrued and paid on certain purchases from unregistered out-of-Utah sellers. Some of the more common items for use tax reporting include advertising supplies, special office or shop equipment, computer hardware and software, and office supplies.

Sales and use taxes are "transaction taxes". This means the tax is not on the articles sold or furnished, but on the transaction, and the purchaser is the actual taxpayer. The seller is charged with collecting the tax from the purchaser and paying the tax to Utah. In cases where the seller does not charge the tax, it becomes use tax and the purchaser is responsible to report and remit the tax.

## Streamlined Sales Tax

Streamlined Sales Tax (SST) is a nationwide effort by state governments, local governments and the private sector to simplify and modernize sales and use tax collection and

administration. This multi-state effort produced the Streamlined Sales and Use Tax Agreement. The purpose is to establish uniform sales and use tax standards, modernize sales and use tax laws, and make the burden of compliance the same for all sellers and all types of commerce. Effective July 1, 2004, Utah adopted the requirements of the Streamlined Sales and Use Tax Agreement and the resulting changes to Utah law have been included in this publication. Additional filing options will become available when the SST Agreement has been adopted by 10 states, comprising at least 20 percent of the total population of states with a sales tax. For more information on the SST Project visit [www.streamlinedsalestax.org/](http://www.streamlinedsalestax.org/).

## Filing and Reporting Requirements

### Sales Tax License

All retailers must have a Utah Sales Tax License and related account number. Application for a license and account number is made to the Tax Commission on a Utah State Business and Tax Registration form, TC-69. Most sellers may apply online using OneStop Business Registration at [utah.gov/osbr/user](http://utah.gov/osbr/user).

Examples of businesses that typically must register for a Sales Tax License include: retailers selling tangible goods or services, wholesalers purchasing resale inventory, manufacturers, leasing companies, and consumers such as professional firms and construction contractors.

### How To Close a Sales Tax Account

Every sales tax license holder that discontinues business in Utah is required to notify the Tax Commission immediately in writing. Businesses may contact the Taxpayer Services Division of the Tax Commission for assistance in closing sales tax accounts. The license holder may also close the account by marking the box on the return titled "To CLOSE your account, enter your last day of business." If the Tax Commission is not informed, the license holder may be assessed an estimated tax, including late penalties and interest.

### How To Close an Outlet

If the account remains open, but an outlet in Utah is closed, the sales tax license holder is required to notify the Tax Commission immediately in writing, identifying the effective date. Businesses may contact the Taxpayer Services Division of the Tax Commission for help in closing sales tax outlets. The closed outlet will no longer appear on the sales tax return generated and mailed to the account holder.

### Notification of Liability

If you are purchasing a business, Utah Code §59-12-112 requires you to withhold enough of the purchase money to cover any taxes due and unpaid until the former owner of the business produces a receipt from the Tax Commission showing that the taxes have been paid, or a certificate showing that no taxes are due. If you fail to withhold the required purchase money, and the taxes remain due and unpaid 30 days after the business is sold, you will be personally liable for payment of the taxes unpaid by the former owner.

## Filing Requirements

### Returns

Only one sales and use tax return is required for each filing period. If a seller is liable for sales-related taxes, such as transient room, tourism, waste tire, etc, a separate return must be filed for each period for each type of tax or fee. Returns are due on or before the last day of the month following each filing period, unless the due date falls on a weekend or holiday. In that case, the return will be due the first working day following the end of the month.

Filing periods are determined by the Tax Commission. If your sales tax liability is less than \$1,000 per year, you may file annually. If your sales tax liability is \$1,000 or more but less than \$50,000 per year, you may file quarterly. If your sales tax liability is \$50,000 or more, you must file monthly.

### Paper Returns

Once a license has been issued or a new tax imposed, the Tax Commission will mail a personalized return to each seller. However, if a seller does not receive a return, it is the seller's responsibility to obtain blank forms, file all appropriate returns, and pay the taxes by the due date. Returns must be filed even if the account holder has no tax liability for a particular period.

### Online Sales Tax Return

Sellers have the option of filing their sales and use tax returns and schedules online using the TC-61 web application found at [utah.gov/salestax](http://utah.gov/salestax). The Tax Commission will print a PIN on the TC-61 return that will allow access to the online application. For 2004, only annual filers with multiple locations or multiple tax types will be excluded from online filing. In 2005, all Utah sales tax filers, including annual filers, may file their returns online.

### Nexus Filers

Nexus means a business entity has established a direct or representational presence within a particular state. This presence gives the state the right to require a seller to pay or collect and remit certain taxes. Businesses with Utah nexus, must file sales tax returns even if they have no tax liability for a particular period.

### EFT

If your annual sales tax liability is \$96,000 or more, payment must be made by Electronic Funds Transfer (EFT). The EFT must be completed before 3:00 p.m. Mountain Time on or before the last day of the month following each filing period, unless the due date falls on a weekend or holiday. In that case, the payment will be due the first working day following the end of the month.

Filers who are required to pay by Electronic Funds Transfer (EFT) should not use the Tax Commission's web-based payment system (PaymentExpress) for current returns. Payments made online by credit card or electronic check do not meet EFT filing requirements. Sellers required to pay by EFT that use the online payment system for current returns will lose their seller discount. However, EFT filers may pay past-due liabilities online using PaymentExpress.

### Seller Discount

Persons filing **monthly** sales tax returns are entitled to a seller discount equal to 1.31 percent of the combined sales tax. Persons filing monthly tourism tax returns are entitled to a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county. Quarterly and annual filers are not eligible for the seller discount.

## Penalties

The penalty for failure to file a tax due return by the due date is the greater of \$20 or 10 percent of the unpaid tax. In addition, if a tax balance remains unpaid 90 days after the due date, a second penalty, the greater of \$20 or 10 percent of the tax balance, will be added for failure to pay timely. The penalty for failure to pay tax due as reported on a timely filed return, or within 30 days of a notice of deficiency, is the greater of \$20 or 10 percent of the tax due. In addition, monthly returns filed late or underpaid returns will result in the loss of seller discount.

Purchasers or lessees who claim sales and use tax exemptions for purchases or leases of manufacturing machinery and equipment, normal operating replacements or semiconductor fabricating or processing materials are required to report the amount of such purchases or leases on the appropriate informational line of their periodic sales and use tax returns. Failure to comply with these reporting requirements may subject the responsible party to a penalty of the lesser of \$1,000 or 10 percent of the sales tax that would have been imposed if the exemption had not applied.

## Interest

Interest will be assessed at the rate prescribed by law from the original due date until paid in full. For information, taxpayers may refer to form TC-15, Applicable Interest Rates, or call the Utah State Tax Commission.

## Refund

A taxpayer can file a claim for a credit or a refund of an overpayment within three years of paying the tax, even though the taxpayer did not object to a notice of deficiency or a notice of assessment by the Tax Commission. If the Tax Commission denies this claim for credit or refund, the taxpayer may file a petition for agency action. A taxpayer may not, however, file a claim for a credit or a refund on a tax deficiency that has been previously adjudicated.

Each transaction for which a sales tax refund is requested must include: (1) Requestor's Name; (2) Requestor's Account Number or Federal ID Number; (3) Seller Name; (4) Seller Account Number; (5) Seller Location; (6) Date of Sale/Purchase; (7) Description of Item(s) Sold/Purchased; (8) Taxable Amount; (9) Tax Paid; (10) Basis for exemption from sales and use tax; (11) Sales tax rate(s) and dates of remittance to Utah State Tax Commission; (12) Copy of invoice(s) that show tax collected; and (13) Copy of check(s) that verify payment of the invoice.

## Record Keeping Requirements

### From Tax Commission Rule R865-19S-22

Every retailer, lessor, or person doing business in Utah is required to keep complete records used to determine the amount of sales and use tax for which they are liable. Records must be retained for three years from the filing date of the tax returns. All records shall be open to the Tax Commission or its authorized agents for examination at any time.

These records shall:

- Show gross receipts from sales or rental payments from leases of tangible personal property, or services performed in connection with tangible personal property made in Utah regardless of whether the retailer considers the receipts to be taxable or non-taxable.

- Show deductions and exemptions allowed by law and claimed in filing sales tax returns.
- Show bills, invoices, or similar evidence of all tangible personal property purchased for sale, consumption, or lease in Utah.
- Include the normal account books maintained by an ordinarily prudent business person, together with supporting documents of original entry such as: bills, receipts, invoices, and cash register tapes. All schedules or working papers used in the preparation of tax returns must also be maintained.

**Note:** Any automated data processing (ADP) tax accounting system must be capable of reproducing visible and legible records for tax liability verification. General ledgers with source references should coincide with financial reports for each tax period. All supporting documentation should be easily accessible. Additional record keeping requirements can be found in Tax Commission Rule R861-1A-35.

## Reminders

This information is only a summary and does not contain all sales or use tax laws and rules.

1. Sales tax must be collected on all taxable sales of tangible personal property to the final consumer.
2. You must file a sales and use tax return whether or not tax is due for a particular period.
3. If you change business locations or add or close any outlets, you must notify the Tax Commission in writing.
4. You must retain your records for three years.
5. Records are subject to audit by a Tax Commission representative.
6. If you discontinue business, you must notify the Tax Commission in writing within thirty days of the final date you were required to collect sales tax.
7. Licenses are not transferable.
8. Merchandise purchased tax free, but used or consumed by you or your company must be reported on the line provided on the sales and use tax return. You must pay use tax on goods that you or your company consumes.
9. A completed exemption certificate from your exempt customers must be retained in your files to verify nontaxable sales. Interstate sales must be documented with a bill of lading or other proof of shipment. The terms of the sale must require shipment or delivery of the property across Utah's boundaries by the seller.
10. Tax must be **rounded** to a whole cent by rounding up to the next cent whenever the third decimal place is greater than four.

## Sales-based Tax Types

Tax rates vary from one community to another depending on the taxes imposed by the individual community. Tax rates are available on the Tax Commission website at [tax.utah.gov/sales/rates.html](http://tax.utah.gov/sales/rates.html).

## Combined Rate Sales Tax

The following taxes are combined rate taxes and are subject to SST rules:

### State Sales and Use Tax

The state sales and use tax rate is 4.75 percent and applies to taxable transactions in all locations within Utah.

### Local Option Sales and Use Tax

A local rate of 1 percent is imposed on taxable transactions within a community as established by local ordinance. This tax applies to the same transactions as the state sales and use tax.

### County Option Sales and Use Tax

A county may impose a tax of .25 percent. This tax applies to the same transactions as the state sales and use tax.

### Resort Communities Tax

A qualifying resort community may impose a tax of up to 1.5 percent on the sale, use or rental of taxable goods and services within the resort community, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. A community qualifies if transient room capacity is greater than or equal to 66 percent of the permanent population. The resort communities tax, if imposed, applies to sales subject to sales and use tax and is included in the combined tax rate. Sales of single items costing \$2,500 or more are **no longer** exempt, effective July 1, 2004.

**Exception:** Sales of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes, are exempt from resort communities tax. This exemption, however, does not apply to trailers, off-highway vehicles, snowmobiles, truck-mounted campers, etc.

### Rural Health Care Facilities Tax

Qualifying rural counties or cities may adopt a rural hospital tax of up to 1 percent. The tax is imposed on the sale of taxable goods and services sold within the adopting jurisdiction, and on the purchase of items subject to the use tax, i.e., items for use, storage, or other consumption within the jurisdiction. This tax is part of the overall sales and use tax in certain localities, and is used to fund rural county and city hospitals, and qualified nursing homes.

### Public Transit Tax

Counties, cities or communities that have a public transit system may adopt a public transit tax of up to .5 percent. Public transit tax applies in the same manner as the local sales and use tax.

### Highways Tax

Counties, cities or communities that have not already adopted the public transit tax may adopt a highways tax of .25 percent. The highways tax applies in the same manner as the local sales and use tax.

### Recreational Facilities and Botanical, Cultural, and Zoological Organizations Tax

Utah counties, cities or towns may impose a tax of .10 percent on all taxable sales and service in the county to fund these types of organizations.



## Town Option Sales and Use Tax

Qualifying towns, as described in Utah Code §59-12-1302(2), may impose the town option sales and use tax of up to 1 percent. This tax applies in the same manner as the local sales and use tax. Currently, only the town of Snowville has imposed this tax.

## Related Taxes and Fees

Streamlined Sales Tax incorporated resort communities tax into the combined rate. Sellers who report and collect resort communities tax are no longer required to file it on a separate return. However, SST did not affect Utah's other sales-related taxes and fees. This means there is no change to how sellers collect and report the following taxes. Sellers will continue to source these transactions to the point of sale and remit the taxes and fees on separate returns.

**The following sales-related taxes and fees are NOT subject to SST rules:**

### Tourism Tax

Where adopted, this tax is imposed on the following types of transactions:

- A restaurant tax of up to 1 percent may be imposed on all prepared foods and beverages sold by restaurants.

The term "restaurant" is defined as any retail establishment, other than a theater, whose business is the sale of foods and beverages for immediate consumption. Restaurant includes dinner theaters. See Utah Code §59-12-602 for more information.

**Exception:** In counties that have adopted the tourism tax, it does not apply to sales of food from deli areas, pizza take-out counters or salad bars within a grocery store or convenience store whose primary business is the sale of fuel or food not prepared for immediate consumption. These sales are exempt from the tourism tax even if the stores have seats or stools for customers. However, if a grocery store or convenience store has a full-service restaurant, the tourism tax is due on sales in that restaurant.

- A tourism tax of up to 7 percent may be imposed on all short-term motor vehicle rentals or leases. This applies to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, except:
  - leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
  - leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 pounds or more; or
  - leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by an exemption certificate, such as a TC-721, to be retained by the lessor.

- In addition to the transient room tax discussed below, qualifying counties may impose an additional tax of .5 percent on every rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days. This is reported and remitted on the TC-61T.

- Persons filing monthly returns are entitled to a seller discount equal to 1 percent of the tourism short-term leasing tax adopted by the county.

Tourism tax is reported on the TC-61FV for monthly filers or the TC-61F for quarterly or annual filers.

### Motor Vehicle Rental Tax

A statewide motor vehicle rental tax of 2.5 percent is charged on all short-term motor vehicle rentals or leases. This is in addition to the tourism tax, if adopted, of up to 7 percent on all short-term motor vehicle rentals or leases. The statewide motor vehicle rental tax of 2.5 percent is not eligible for a seller discount.

The statewide motor vehicle rental tax, and the tourism tax if adopted, apply to all rentals of passenger cars or recreational vehicles for a period of 30 days or less, **except:**

- leases and rentals of motor vehicles for the purpose of temporarily replacing a motor vehicle that is being repaired pursuant to a repair or insurance agreement;
- leases and rentals of motor vehicles that are registered for a gross laden weight of 12,001 pounds or more; or
- leases and rentals of motor vehicles as personal household goods moving vans.

Leases and rentals of motor vehicles that would be exempt from sales tax are also exempt from this tax. Exemptions must be documented by an exemption certificate, such as a TC-721, to be retained by the lessor.

Motor vehicle rental tax is reported on the TC-61FV for monthly filers or the TC-61F for quarterly or annual filers.

### Transient Room Tax

Utah counties may impose a transient room tax of up to 3 percent on the rental of rooms in hotels, motels, inns, trailer courts, campgrounds, tourist homes, and similar accommodations for stays of less than 30 consecutive days. The transient room tax, if imposed, is charged in addition to sales tax and in addition to other applicable taxes adopted in the community. The transient room tax does not apply to charges for meeting rooms.

Some counties have also enacted a tourism tax on lodging, as noted above.

Transient room tax is reported on the TC-61T.

### Municipality Transient Room Taxes

In addition to the county-imposed transient room tax and the tourism tax on room rents, municipalities may impose taxes of up to 1.5 percent on rents charged for the same accommodations that are subject to the Transient Room Tax.

Municipality transient room tax is reported on the TC-61T.

### Waste Tire Recycling Fee

A waste tire recycling fee of \$1 per tire with rim sizes up to and including 24½ inches has been imposed on each purchase of new tires. The waste tire recycling fee is paid by the consumer to the tire retailer at the time the new tire is purchased. Both new and used vehicle dealers (including trailer and off-road vehicle dealers, in addition to automobile, truck and recreational vehicle dealers) are considered tire retailers for this purpose. The fee applies to all tires sold with a new vehicle. Dealers, at their option, may pay the fee to a tire dealer, provided they also pay sales tax on the purchase. Sales tax exemptions, including the nonresident affidavit, do not apply to the recycling fee. Sales of tires or

tires mounted on vehicles sold to governmental agencies or other normally exempt institutions are **not** exempt from this fee. The fee itself is not subject to sales tax. The fee does not apply to used tires, bicycle tires, or any tires attached to devices propelled by human power, nor does it apply to tires sold and delivered out of Utah. Tire retailers are allowed to retain 2.5 percent of the fees collected and reported to cover the cost of collection.

Waste tire recycling fee is reported on form TC-61W.

## Other Information

The following miscellaneous taxes and fees may also apply to certain sellers. For more information, contact the Tax Commission.

- Motor fuel, aviation fuel, and special fuel taxes
- Lubricating oil fee
- Beer, cigarette, and tobacco products taxes
- Municipal energy sales and use tax
- Emergency services telephone charge (911 and poison control)
- Royalty payment on unprocessed brine shrimp eggs
- Multi-channel audio and video tax
- Sexually explicit business and escort service tax
- Municipal telecommunications license tax

perceptible to the senses. Tangible personal property includes electricity, water, gas, steam, prewritten software, and digital and electronic goods.

**Transportation Equipment** means: (1) a locomotive or railcar that is utilized for the carriage of persons or property in interstate commerce; (2) a truck or truck-tractor with a gross vehicle weight rating of 10,001 pounds or more that is registered under Section 41-1a-301 and operated under the authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce; (3) a trailer, semi-trailer, or passenger bus that is registered under Section 41-1a-301 and operated under the authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce; (4) an aircraft that is operated by an air carrier authorized and certificated by the United States Department of Transportation or another federal or foreign authority to engage in the carriage of persons or property in interstate commerce; or (5) a container designed for use on or a component part attached or secured on an item listed above.

**Sourcing** is attributing a sale to a specific taxing jurisdiction in order to determine the tax rate to charge.

**Destination-based Sourcing** is determining the taxing jurisdiction where possession by the purchaser takes place, which could be the fixed location of the seller or the delivery location of the purchaser.

## Calculating Sales Tax

### Definitions

“**Purchase price**” and “**sales price**” mean the total amount of consideration valued in money and for which tangible personal property or services are sold, leased, or rented.

“**Purchase price**” and “**sales price**” include:

- the seller’s cost of the tangible personal property or services sold;
- expenses of the seller, including the cost of materials used; a labor cost; a service cost; interest; a loss; the cost of transportation to the seller; or a tax (including federal excise tax) imposed on the seller;
- a charge by the seller for any service necessary to complete the sale;
- a delivery charge; or
- an installation charge.

“**Purchase price**” and “**sales price**” do not include:

- a discount in a form including: cash or term taken by a purchaser, or coupon that is allowed by a seller, and that is not reimbursed by a third party
- the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:
  - a. the amount of a trade-in;
  - b. the following from credit extended on the sale of tangible personal property or services: separately stated interest charges; financing charges; or carrying charges or
  - c. a tax or fee legally imposed directly on the consumer

**Tangible personal property** is property that may be seen, weighed, measured, felt, touched, or is in any manner

### Taxes or Fees Imposed on the Seller

Current Utah Law allows municipalities to impose and collect a license fee or tax on any business within the municipality. Examples of city-imposed taxes include a gross receipts tax on all businesses within the city and taxes directed at a particular category of business, such as innkeepers. City-imposed taxes (other than sales and use taxes imposed under the Utah Sales and Use Tax Act) must be included in the taxable sales reported on the state sales and use tax return. For example, a seller makes sales in a city that has imposed a two percent gross receipts tax on revenues. City and state taxes are calculated as follows.

Taxable sales	\$100.00
City imposed gross receipts tax @ 2%	<u>2.00</u>
Amount subject to state and local taxes	\$102.00
Applicable sales tax rate	6.125%
Amount subject to state and local taxes	\$102.00
Sales tax rate	<u>x.06125</u>
State and local sales taxes remitted to the state	\$6.25
Transaction total	\$108.25

### Determining Tax Base

#### Taxable Sales

Sales of tangible personal property and certain services to final consumers are taxable. The following transactions are taxable unless a specific exemption applies:

- Retail sales or purchases of tangible personal property made within Utah.
- Tangible personal property stored, used, or consumed in Utah.

- Rentals and leases of tangible personal property if the situs of the tangible personal property is in this state, the lessee took possession of the tangible personal property in this state, or the tangible personal property is stored, used, or otherwise consumed within this state.
- Labor to repair, renovate, wash, clean, and install tangible personal property in connection with other tangible personal property. This includes maintenance agreements.
- Laundry and dry cleaning services, other than coin-operated laundry and dry cleaning services.
- Admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit, television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity. User fees include charges for access to a video, video game, television program, or cable or satellite broadcast, if that access occurs at any location other than the individual's residence.
- Tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days.
- Passenger fares on intrastate common carriers, other than taxis and commercial airlines.
- Telegraph services and intrastate telephone service.
- Meals at restaurants or other eating places.
- Sales for commercial use of gas, electricity, heat, coal, fuel oil, or other fuels.
- Sales for residential use of gas, electricity, heat, coal, fuel oil, or other fuels are taxed at the state rate of 2 percent plus any local and/or public transit tax applicable.
- Sales of prepaid telephone calling cards, including vending machine sales of prepaid telephone calling cards.
- Memberships that entitle the purchaser to discounted or free merchandise or services of a type subject to the sales tax. Examples include memberships allowing the card holder to enter a facility and make purchases of merchandise at the stated price without any additional markup, and video memberships that allow members to rent videos at half price. All purchases made with these membership cards are subject to sales tax at the time of purchase unless a specific exemption applies.

**Note: For more information on taxable sales and purchases, refer to the Additional Information section.**

## Determining Tax Rate (Sourcing)

To achieve uniformity among all states in the collection of sales tax, sellers are required to source sales of property, services, and digital goods on a destination/delivery basis. The following table shows the general sourcing rules for sales, rentals, and leases.

Category of Transaction	Location of Transaction (Sourcing) Utah Code §§59-12-207.1, 59-12-207.2, 59-12-207.3
<b>Retail Sale of:</b> <ul style="list-style-type: none"> <li>Tangible Personal Property (includes electronic or digital goods)</li> <li>Taxable Services</li> <li>Transportation Equipment (aircraft, trains, railcars, motor carriers, trailers, semi-trailers, and passenger buses operating under federal certification and engaged in inter-state commerce)</li> </ul> <b>Lease or Rental of:</b> <ul style="list-style-type: none"> <li>Transportation Equipment</li> </ul>	<ol style="list-style-type: none"> <li>(1) When received by purchaser at business location of seller, sale sourced to that business location.</li> <li>(2) When not received at business location, sale sourced to location where received by purchaser, including digital goods received electronically.</li> <li>(3) If (1) or (2) do not apply, sourced to address of purchaser from seller's business records.</li> <li>(4) If (1), (2) or (3) do not apply, sourced to address of purchaser obtained during consummation of transaction.</li> <li>(5) If (1), (2), (3), or (4) do not apply, sourced to address from which property was shipped, from which electronic goods were first available for transmission by a seller, or from which a service was provided.</li> </ol>
<b>Retail Sale of:</b> <ul style="list-style-type: none"> <li>Manufactured Homes</li> <li>Modular Homes</li> <li>Mobile Homes</li> <li>Motor Vehicles or Aircraft that are not Transportation Equipment (see definition above)</li> <li>Watercraft</li> </ul>	<ol style="list-style-type: none"> <li>(1) If sold by a dealer, sourced to business location of the dealer.</li> <li>(2) If sold by person other than a dealer, sourced to street address of registration.</li> <li>(3) If not required to be registered, sourced to street address where the purchaser of the property resides.</li> </ol>
<b>Lease or Rental of:</b> <ul style="list-style-type: none"> <li>Tangible Personal Property (includes electronic or digital goods)</li> <li>Taxable Services</li> <li>Manufactured Homes</li> <li>Modular Homes</li> <li>Mobile Homes</li> <li>Watercraft</li> </ul>	<ol style="list-style-type: none"> <li>(1) If there are no recurring periodic payments, sourced the same as a retail sale of tangible personal property.</li> <li>(2) If lease or rental requires recurring periodic payments, down payment and first payment are sourced the same as a retail sale of tangible personal property. Subsequent periodic payments are sourced to primary property location.</li> </ol>
<b>Lease or Rental of:</b> <ul style="list-style-type: none"> <li>Motor Vehicles or Aircraft that are not Transportation Equipment (see definition above)</li> </ul>	<ol style="list-style-type: none"> <li>(1) If there are no recurring periodic payments, sourced the same as a retail sale of tangible personal property.</li> <li>(2) If lease or rental requires recurring periodic payments, down payment and each recurring payment is sourced to primary property location.</li> </ol>



## Tax Rate Changes

Tax rates and jurisdiction boundaries may change only at the beginning of a calendar quarter after sufficient notice has been given by the taxing authority. The Tax Commission will publish notices on its website of upcoming changes to alert sellers of needed changes to future returns. A tax rate lookup function and a tax rate database in downloadable format are available on the web at: [www.tax.utah.gov](http://www.tax.utah.gov).

Rate changes for services covering a period starting before and ending after the statutory effective date will be as follows:

- For a rate increase, the new rate applies to the seller's first billing period starting on or after the effective date, or
- For a rate decrease, the new rate applies to the seller's bills issued on or after the effective date.

### Example 1

A local dealer arranged an automobile lease contract for 36 months, and it accommodated the customer's wish that the payment be made mid-month. Halfway through the contract period, the sales tax rate increased, effective Oct 1, 2004, which increased the monthly lease payment. The payment made on Sep 15, 2004, for the period Aug 16 to Sep 15, was subject to the old tax rate. Since the next payment period, due Oct 15, was for the period that started Sep 16, before the rate went into effect, it was taxed at the old rate, even though the payment was made after the new rate went into effect. However, the following payment, due Nov 15, was for a period (Oct 16 to Nov 15) that started after the new rate went into effect, so was subject to the new rate, and therefore the customer paid the higher rate.

### Example 2

Using the same scenario above, instead of a tax rate increase there was a tax rate decrease effective Oct 1. The payment due on Sep 15 was at the old higher rate. However, the payment due Oct 15 was at the new lower rate since the bill was issued after the rate went into effect, even though the period started before the effective date. The October and all subsequent bills were taxed at the new lower rate.

## Sales and Use Tax Exemptions

Utah law provides some exemptions from sales and use tax. Some of the more common exemptions are outlined below. For complete details on exemptions, refer to Utah Code §59-12-104. If a sale qualifies for an exemption that is either entity-based or use-based, the seller must obtain standard exemption information from the purchaser. Exemption information may be collected by the seller either electronically or on Utah State Tax Commission form TC-721, Exemption Certificate. If captured electronically, the same information that is on the TC-721 must be retained. A purchaser is not required to provide a signature to claim an exemption from tax unless a paper exemption certificate is used. Purchasers and sellers are allowed to use substitute forms if they contain the same information as Utah State Tax Commission form TC-721.

If the exemption is product based, no exemption certificate is necessary.

## Entity-based Exemptions

An entity-based exemption is determined by who purchases or sells the product. An exemption certificate is required.

The following are exempt:

- Sales to United States and Utah government agencies. Currently, sales of construction materials to most Utah government agencies are exempt only if installed by the agencies' employees. Construction materials purchased by or on behalf of public elementary and secondary schools are exempt from the sales tax. The construction materials must be clearly identified and segregated, and they must be installed or converted into real property owned by the school. See Tax Commission Rule R865-19S-23 for information relating to documentation of sales to government agencies.

To qualify as a sale made to a U.S. or Utah government agency, the purchase must be made with the government entity's funds. A purchase does not qualify for this exemption if a government agency employee pays for the purchase with personal funds, even if the employee is reimbursed for the purchase by the government agency. Government employees traveling on official business are NOT exempt from these taxes unless they present:

- a properly completed exemption certificate,
- a check, purchase order, or voucher supplied by the U.S. or Utah government agency; or
- a U.S. government credit card (also called SmartPay cards). For detailed information on Federal government credit cards, please refer to FTA bulletin B-07/02, which can be found at [www.taxadmin.org/fta/rate/b-0702.pdf](http://www.taxadmin.org/fta/rate/b-0702.pdf)

The sales tax exemption for purchases by Utah state and local government entities does **NOT** apply to purchases by a state other than Utah or to purchases by any local government entity located outside of Utah. Utah state employees must pay taxes on all lodging, regardless of the credit card used. Utah government purchases of items, other than travel, are tax exempt if purchased with a Utah state purchasing card or paid with a Utah state check. Purchasing cards are issued by U.S. Bank. The cards display the Utah state seal, "State of Utah Tax Exempt" and are imprinted with the individual purchaser's name and Utah state agency. While sellers are required to maintain evidence that a purchase qualifies for the sales tax exemption as a sale to the federal or Utah State government, this requirement is satisfied if the seller maintains a record of the qualifying credit card number, a copy of the government entity check, purchase order, or voucher, or a properly completed and signed exemption certificate, Exemption Certificate (TC-721).

- Sales made to or by: (1) an area agency on aging; or (2) a senior citizen center owned by a county, city, or town, and sales made by a senior citizen center that contracts with an area agency on aging.
- Certain enrolled members of Native American tribes (including the tribe itself) may purchase tax free if:
  - the member has a tribal card showing a Federal Bureau Number;
  - the sale is to an enrolled tribal member and delivery is taken on the member's own reservation (in the case of the Ute Indian Tribe, the sale must be made on or delivery must be made to tribal trust lands within the Uintah and Ouray reservations); **and**
  - in the case of sales to the tribe itself, a purchase order, exemption certificate, or similar evidence of tribal identity must be presented.

Sales of tangible personal property made off the reservation to enrolled members of the tribe are taxable. They are exempt from tax only if delivery is made to the reservation by the seller or a licensed common carrier.

- Foreign diplomats – Certain foreign diplomatic employees are exempt from sales tax to varying degrees. These diplomatic personnel are issued tax exemption cards by the U.S. Department of State. The cards are color-striped, indicating the type and/or amount of sales tax exemption. Bearers of cards with a green stripe are not exempt from taxes on hotel rooms. Sellers are instructed to retain a photocopy of the card for evidence of exemption. The cards are not valid to make exempt purchases of telephone service or other utility services; the U.S. Department of State issues special exemption certificates for such purposes.
- Feed, seed, baling ties, etc. sold to commercial agricultural producers.
- Certain farming equipment used or consumed in commercial farming. Charges for labor and/or parts (including lubricating oil, antifreeze or other supplies) used to repair or maintain off-road machinery and equipment used primarily and directly in agricultural production are exempt.
- Sprays and insecticides used to control insects, diseases, and weeds for commercial agriculture, but not those sprays used in the processing of the products.
- Sales of electricity and fuel for industrial use as defined in Utah Code §59-12-102.
- Sale or lease of semiconductor fabricating or processing materials.
- Sales relating to schools and fundraising.
- Sales to religious or charitable institutions. In the case of sales of \$1,000 or more, or sales made pursuant to a contract between the seller and the religious or charitable institution, the exemption shall be at the point of sale. In all other cases, the exemption shall be in the form of a refund of sales or use taxes paid at the point of sale.  
  
To be eligible for the exemption, the organization must be recognized as exempt under Section 501(c)(3) of the IRS code, and must have obtained a sales tax exemption number (N#####) from the Tax Commission. Religious and charitable organizations may apply to the Tax Commission for a refund of sales taxes paid.
- Sales of construction materials to a religious or charitable institution, or to a contractor purchasing on behalf of a religious or charitable institution.

## Use-based Exemptions

A use-based exemption is determined by the purchaser's use of the product. An exemption certificate is required.

The following are exempt:

- Sales of certain vehicles to nonresidents for use outside of Utah. Form TC-583, Nonresident Affidavit for Sales Tax Exemption, is to be used for this exemption. See Tax Commission Rule R865-19S-98.
- Property purchased for resale in this state, in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product.

- Sales for resale or lease. In addition, the lease of tangible personal property is exempt if it meets all of the following conditions:
  - the property is part of a sale-leaseback transaction;
  - sales or use tax was paid on the initial purchase of the property;
  - the leased property will be capitalized and the lease payments will be accounted for as payments made under a financing arrangement; and
  - the sale and leaseback must have taken place on or after July 1, 1995.
- Purchases of tangible personal property upon which a sales and use tax was paid to another state are exempt, except if the tax paid was lower than Utah's rate. If lower than Utah's rate, the purchaser must pay the difference and no adjustment or credit is allowed if the tax paid was greater than Utah's rate.
- Sales price of machinery and equipment used for normal operating replacements, and purchased by a qualified manufacturer or scrap recycler described in the Standard Industrial Classification Manual (SIC) classification 2000-3999. This exemption does not include amounts for repairs and maintenance. Purchasers of the qualifying machinery and equipment that fail to report this on the informational lines of the Sales and Use Tax Return shall be penalized the lesser of \$1,000 or 10 percent of the sales and use tax that would have been imposed if the exemption had not applied.
- Charges for labor to repair or renovate tangible personal property or to install tangible personal property in connection with other tangible personal property are exempt from sales and use tax if the parts used in the repair or renovation or being installed are exempt from sales and use tax.
- Parts used in the repair or renovation of the following exempt tangible personal property :
  - tooling or equipment used or consumed exclusively in the performance of an aerospace or electronics industry contract with the United States government;
  - tangible personal property used or consumed primarily and directly in farming operations;
  - snow making equipment, ski slope grooming equipment, and passenger ropeways;
  - hearing aids and hearing aid accessories;
  - mobility enhancing equipment; and
  - durable medical equipment.
- Sales of nonreturnable containers, labels, bags, shipping cases, and casing to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by the manufacturer, processor, wholesalers, or retailer.

## Product-based Exemptions

A product-based exemption is based on the description of a product and is not based on who purchases the product or how the purchaser intends to use the product. Product-based exemptions do not require an exemption certificate.

The following are exempt:

- Isolated or occasional sales if the sale is not an integral part of a business whose primary function is the sale of tangible personal property.

- The amount paid for an item intended for a drug, a syringe, or a stoma supply if the item is for human use and a prescription was issued for the item, or the item was purchased by a hospital or other medical facility.
- Sales or rentals of durable medical equipment if the person presents a prescription for the durable medical equipment.
- Sales or rentals of mobility enhancing equipment if a person presents a prescription for the equipment.
- Sales of hearing aids and hearing aid accessories, except batteries, and charges for labor and/or parts used in the repair or renovation of hearing aids and hearing aid accessories. Sales of hearing aid batteries are taxable.
- Sales of a prosthetic device for use on or in a human for which a prescription is issued; and to a person that presents a prescription for the prosthetic device.
- Forty-five percent of the sales price of a new manufactured home and 100 percent of the sales price of a used manufactured home.
- Fees charged for certain coin-operated amusement devices, when the seller does not assist in the sales of tokens and the seller is unable to collect the sales tax at the time a person inserts coins into the amusement device.
- Sales through coin-operated car washes and dry cleaning and laundry machines.
- Interstate sales (must be delivered by common carrier or the seller to a point outside of Utah). A copy of the bill of lading, freight bill, form TC-757 or other evidence of out-of-Utah delivery must be kept by the licensed seller or retailer. If the property is delivered in the state of Utah to a consumer, the tax applies, regardless of its removal from Utah. See Tax Commission Rule R865-19S-44.
- Motor fuels and special fuels subject to Utah state fuel excise tax.
- Fees charged by taxicabs, including horse-drawn cabs or carriages.
- Sales of hay.
- Exclusive sale of locally grown crops, seedling plants, or garden, farm, or other agricultural produce, if sold by a producer during the harvest season. "Locally grown" includes those seasonal crops grown within the boundaries of Utah, but excludes those seasonal crops grown outside Utah's boundaries.
- Sales of telephone service charged to a prepaid telephone calling card.
- Sales of newspapers or newspaper subscriptions.
- Sales of water in a pipe, conduit, ditch, or reservoir.
- Room and trailer space rentals for 30 consecutive days or more.
- Sales of currency or coinage that constitute legal tender of the United States or of a foreign nation
- Sales of an ingot, bar, medallion, or decorative coin that has a gold, silver, or platinum content of 80% or more and does not constitute legal tender of any nation.
- Admissions to higher education athletic events.
- Sales of food and food ingredients, prepared food or alcoholic beverages by a church or a charitable institution if the items are not available to the general public.
- Sales of food and food ingredients, prepared food or alcoholic beverages by an institution of higher education if the items are not available to the general public and are prepaid as part of a student meal plan offered by the institution of higher education.
- Sales of food and food ingredients, prepared food or alcoholic beverages provided at a medical facility or a nursing facility.

## Additional Information

### Goods Consumed by the Seller

Items consumed by the seller are subject to use tax on the amount of the seller's cost of the items, not the selling price. Items consumed by the seller include:

- **items taken from a seller's inventory** and used by the seller;
- **samples** given away for advertising; and,
- products **consumed by employees** without payment.

When making purchases for store use from local businesses, tax should be paid at the time of purchase. For example, **office supplies and equipment**, such as labels for internal accounting, cash register tapes, returnable containers, and furniture are taxable at the point of sale.

The seller may purchase **grocery bags and sacks** and other non-returnable packaging material tax free that go out the door with the customer.

No tax is due on **items discarded** because of spoilage, broken packaging, and similar incidents, because they are not considered as consumed by the seller.

The purchase of printed advertising inserts is taxable unless the inserts contain the name and publication date of the newspaper distributing the inserts and are included in and distributed with the newspaper. See Tax Commission Rule R865-19S-65.

### Coupons and Rebates

Coupons or rebates for which the seller is reimbursed by a third party, such as a manufacturer or distributor do not reduce the amount subject to sales tax. The amount subject to sales tax is the sales price of the item, before deducting the value of the coupon. An in-store coupon or coupon issued by the seller for which no reimbursement is received is considered a reduction in the sales price. The taxable amount is the net amount paid for the item after deducting the value of the in-store coupon.

### Premiums and Gifts

A premium or gift given away with the sale of a product that is subject to tax is considered part of that sale, and the purchase of the premium or gift by the retailer is not taxable. Items given away without requiring a specific purchase and items given away as advertising are considered consumed by the retailer, and the retailer must pay tax on the retailer's cost of those items.

### Returned Merchandise

A customer who receives credit for returned merchandise is entitled to a refund of the sales tax. If a customer is given a partial refund or allowance, the customer is entitled to a refund of sales tax on the portion of the original sales price refunded.

## Returned Checks and Bad Debts

Bad debts may be claimed only by a seller. A seller is entitled to a sales tax adjustment for returned checks and bad debts. Nontaxable amounts, such as cash back and exempt charges must be deducted from the total amount of the returned check or bad debt amount to arrive at the net write-off amount. The amount of the adjustment to be claimed on the sales tax return is determined by dividing the net write-off amount by one (1) plus the tax rate adopted in the community at the time of sale.

**If an item is repossessed, a credit may not be taken for the bad debt.**

## Delivery Charges

Any charges by a seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services, including, but not limited to, transportation, shipping, postage, handling, crating, and packing are subject to tax. Freight charges in connection with the sale of tangible personal property are taxable regardless of the F.O.B. (free on board) designation.

## Special Events

When tax is included in the sales price of items sold at special events, such as t-shirts, the tax must be calculated separately. To determine the sales price without tax, the proceeds of an accounting period are divided by one (1) plus the tax rate adopted in the community where the special event was held. For example:

- Where the combined rate is 6.0%, divide by 1.060
- Where the combined rate is 6.125%, divide by 1.06125

## Vending Machine Sales

Vending machine sales, such as machines that dispense soft drinks, gumballs, cigarettes or novelty toys, are taxed in the same manner as special event sales. Tax is included in the vended price. However, a seller of food, and food ingredients or prepared food of \$1 or less has the option of paying tax on 150 percent of the seller's cost, including incoming freight costs. If this option is taken, the sale itself is exempt, but the taxable amount (150 percent of cost) must be reported as goods consumed on the return. If the vending machine is owned and serviced by a vending machine company, the tax is the responsibility of the vending machine company.

## Returnable Containers

Deposits on returnable containers, bottles, pallets and drums are subject to tax. When containers are returned for refund of the deposit, sales tax should be refunded. Bottle deposits are exempt from tax when purchased with food stamps or Women, Infants and Children (WIC) coupons.

## Food Stamps and WIC

Sales of food paid with federal food stamps or WIC coupons are exempt from sales and use tax.

## Videos and DVD's

Videotape and DVD rentals are taxed in the same manner as sales of tangible personal property.

## Newspapers and Postage

Sales of newspapers and postage stamps are exempt. To qualify as a newspaper, publications must:

- be published daily or weekly;
- be intended for circulation among the general public;
- contain matters of general interest and must report on current events; and
- must not constitute a book when multiple issues are put together.

The regularly circulated newspapers such as the *Tribune*, *Deseret Morning News*, *USA Today*, and local town papers such as the *Davis County Clipper* are considered newspapers. Tabloids such as *Enquirer*, *Star*, *Globe*, etc., are considered magazines and their sales are taxable. Sales of magazines, such as *US News and World Report*, *Ladies Home Journal* and *Time*, are taxable.

## Money Orders, Faxes and Photocopies

Money order fees and charges for sending or receiving faxes are not subject to sales tax. Photocopying charges are taxable.

## Cigarettes and Tobacco Products

Any entity selling cigarettes and/or tobacco products must obtain a license (included on the general application form TC-69) for each selling location. Most sellers may apply online using OneStop Business Registration at [utah.gov/osbr/user](http://utah.gov/osbr/user). Civil penalties apply to any licensee selling to underage youth (under 19 years). Questions related to underage provisions should be directed to your local health department.

The sale of cigarettes and/or tobacco products is subject to state and local sales tax. The amount subject to sales tax includes the cigarette or tobacco products tax. Tobacco products tax is due from the **first purchaser** within Utah. If a retail store purchases directly from an out-of-Utah source not collecting the tax, the retail store must be registered and bonded, and remit the tobacco products tax along with form TC-553 on the last day of the month following each calendar quarter.

Cigarette tax is paid by purchasing stamps from the Tax Commission, which must be affixed to each package within 72 hours of being received. Stamps are only available to registered and bonded businesses. No cigarettes may be sold without a stamp on each pack. Any cigarette package without the proper stamp is subject to a \$25 penalty and confiscation.

Application and registration for tobacco products and/or stamping is also made on the general application, form TC-69.



# Specific Information for Public and Private Elementary and Secondary Schools

## Definitions

### School

A “school” is defined as a public school district, a public elementary school or secondary school, or a private school that provides instruction for one or more grades kindergarten through 12.

## Who Must Pay or Collect Sales Tax?

### Public Schools

Utah law provides for a sales tax exemption on sales or rentals to a public school. However, many sales or rentals by public school and admissions or user fees are taxable. Exceptions are noted in this pamphlet. The school must collect tax on its taxable sales or rentals of tangible personal property to students or to the public.

To qualify as a sale made to a public school, the purchase must be made with the school's funds. A purchase does not qualify for exemption as a purchase by a school if a school employee pays for the purchase with personal funds, even if the school employee is reimbursed for the purchase by the school.

### Private Schools

Generally, sales made *to or by* a religious or charitable institution are exempt from sales tax if the sale is made in the conduct of the institution's regular functions or activities. To qualify for this exemption, a school must qualify under section 501(c)(3) of the Internal Revenue Code, and it must obtain a sales tax exemption number from the Tax Commission.

A seller must collect sales tax on purchases by a qualified 501(c)(3) private school unless the school presents the seller with a current exemption certificate, and:

1. the purchase totals \$1,000 or more, or
2. the purchase, regardless of amount, is made pursuant to a contract between the seller and the school, or
3. the purchase is for public utilities.

For qualifying purchases on which the seller collects sales tax, the school may apply for a refund directly from the Tax Commission. Applications for refunds may not be submitted more frequently than once each month.

Private schools which do not qualify as 501(c)(3) organizations are eligible for the sales tax exemptions described in this publication pertaining to fundraisers, sales of food, educational supplies and materials, transportation and clothing as outlined in this pamphlet. Such private schools must pay sales tax on non-exempt rentals and purchases of tangible personal property (such as construction materials) and collect sales tax on non-exempt sales.

### Exemption Certificate

All qualifying tax exempt purchases made by private schools must be supported by a completed and signed Tax Commission form TC-721, *Exemption Certificate*. The school's assigned sales tax number must be indicated in the space provided on the form.

For public schools, either a completed TC-721, purchase order or school district check may be used to evidence the exemption.

## PTA

Generally, charitable organizations may purchase and sell items tax free when the transactions are made in the conduct of the organization's regular functions. The Parent Teacher Association is a charitable 501(c)(3) organization whose purchases and sales are exempt from sales tax when made in the conduct of their charitable functions and activities serving Utah's public schools.

The PTA's sales tax exemption does not extend to a third party business that sells items through the PTA, even if the PTA receives some financial benefit from the sales.

## Sales Tax License

All sellers who are required to collect sales tax must have a sales tax license issued by the Tax Commission. The Tax Commission recommends that a school district obtain the tax license and report all sales by schools within the district. However, each school engaging in taxable sales may obtain its own tax license.

Applications for sales tax licenses (Tax Commission form TC-69) are available from the Tax Commission. Most sellers may apply online using OneStop Business Registration (OSBR) at [utah.gov/osbr/user](http://utah.gov/osbr/user). However, government entities currently cannot apply using OSBR. When completing an application, be sure to include the proper name of the school or school district and the name of a contact person who will be responsible for filing returns. The sales tax license information must be updated whenever a different person assumes responsibility for filing returns.

## What's Taxable and What's Not

The following is an explanation of the typical taxable transactions carried on between the school and students or the public. The list does not include all transactions. It is illustrative only. If you have questions about a transaction, which is not described in this publication, contact the Tax Commission for clarification.

## Taxable Transactions

These types of transactions are subject to sales tax:

- Sales of **yearbooks, student directories, atlases, day planners and spirit packs**, are examples of taxable sales. Generally, all sales made from the school bookstore or office are taxable except sales of textbooks, laboratory supplies or other supplies for required school projects, safety equipment, and items of clothing that a student is required to wear as a condition of participation in a school event. If clothing is required as a condition of participation in a school event, and it is specifically detailed (like a uniform) and it cannot readily take the place of ordinary clothing, it is not subject to sales tax. Generally, if the charge for clothing or equipment is waivable under Utah state fee waiver rules, it is exempt.
- Sales from **concessions stands**.
- **Admissions to swimming pools** and charges to the public for **rentals of towels, equipment or lockers** (if the lockers are tangible personal property). However, charges for **swimming or diving lessons** are *not* subject to tax.

- **Vending machine** sales by private sellers. If the vending machine is operated by an outside seller who pays the school a commission or fee for the privilege of placing the machine in the school, that seller is responsible for reporting and remitting the tax on the vending machine sales.
- Charges for **school pictures**. Generally, an outside photographer sells the pictures and collects payment. The photographer is responsible for collecting and remitting the sales tax on these transactions.
- **Community Education classes**. Although charges for classes or lessons are not taxable, sales of supplies or rental of school equipment are taxable transactions.
- **Book Sales from Outside Sellers**. In one situation, booksellers may furnish teachers with information about their books and sales order forms. Then, teachers distribute the order forms to students who, in turn, pay the school for the books. When the teachers collect the amounts due, the proceeds from the sales are placed into a school account. The school then places one order with the bookseller and pays the seller from the school's funds. In this case, the school must collect sales tax from the students making purchases and remit the tax to the Tax Commission.

Alternatively, a bookseller may provide book information and order forms to the teachers. The teachers, in turn, hand the order forms out to their students. The students return checks for a stated amount to the teacher, who forwards the checks to the bookseller. In this case, the bookseller is required to remit the sales tax to the Tax Commission.

- Sales of **items prepared or produced or manufactured by the students** for sale to other students or the public. For instance, items manufactured for sale by students in a junior achievement program or in a special class are taxable. The raw materials used as component parts or ingredients of the final taxable product may be purchased by the student or student sponsor tax free. However, use of the exemption requires the purchaser to obtain a sales tax license and to file sales tax returns.

### Non-Taxable Transactions

These types of transactions are not taxable except as noted:

- Sales of **textbooks**, textbook rental fees, laboratory fees, **laboratory supplies**, and other **educational supplies** sold to students by the school for use in classes or class projects.
- Charges for use of the school's **copy machine** by students where the copies are for use in classes or class projects.
- Sales of school uniforms required by private or parochial schools are exempt if the uniforms are sold by the schools. Uniforms purchased directly from an outside seller are subject to sales tax.
- **Admissions to athletic events, school dances, school plays** or other school related activities, if amounts paid or charged by the school for admission to a school-related activity are passed through to a school or a nonprofit organization or association authorized by a school board or governing body of a private school to organize and direct a competitive secondary school activity.
- **Participation or sign up fees for drill team, cheerleading, band, athletics and other student activities**. However, if the fee covers the student's purchase or rental of non-exempt clothing or equipment, those sales and rentals are subject to sales tax. Sales or rentals of **safety equipment, fees to recondition safety equipment**, or sales of **clothing** that a student is specifically required to wear as a condition of participation in a school-related event or activity and that is not readily adaptable to general or continued use to replace ordinary clothing are exempt. As a rule of thumb, if the fee for clothing and equipment is waivable under Utah state fee waiver rules, it is exempt. In cases where the fee covers both non-taxable participation fees and taxable (non-waivable) sales or rentals, the taxable portions of the fees must be separately stated and taxed or the entire amount is subject to tax.
- Transportation charges for official school activities.
- Fees charged to students to participate in **athletic clinics** or **cheerleading clinics**.
- **Fines** charged for overdue library books.
- Charges for **advertisements in school publications**.
- Charges to parents for use of the school-operated **nursery school**. (These nursery school programs are taught by high school students under the supervision of a faculty member.)
- Charges for **parking permits** and **class change fees**.
- **Qualified fundraising sales**. Sales made by public or private elementary or secondary schools, or made by a public or private elementary or secondary school student in grades K-12 are exempt if the purpose of raising funds for the school is to purchase equipment or materials or to provide transportation. To qualify for the exemption, the activity must meet the following conditions:
  1. The activity must be a part of an officially sanctioned school activity that is conducted in accordance with a formal policy adopted by the school or district governing the authorization and supervision of fundraising activities.
  2. The funds may not be used to directly or indirectly compensate an individual teacher or other personnel by direct payment, commission, or payment in kind.
  3. The net or gross revenues from the fundraiser must be deposited in a dedicated account which is controlled by the school or district.
  4. Admissions to athletic events or concerts do not fit within the fundraiser exemption. However, if a charge for **reserved seats at a sporting event** is separate from the gate receipts and is structured to fall within the fundraising guidelines outlined above, it does qualify for the fundraising exemption.
- The sale of **coupon books** (e.g. Happenings books) by students or school organizations.
- Sales of **food, food ingredients, or prepared food** served by public and private elementary and secondary schools are exempt from sales tax if the net or gross revenues generated by the sales are deposited into a school district fund or school fund that is dedicated to school meals. Sales of food, food ingredients, or prepared food served by qualified religious or charitable institutions and institutions of higher education are exempt from tax if the

meals are not available to the general public, to include meals that are prepaid as part of a student meal plan offered by the institution of higher education.

- Food sales by the school from **vending machines** owned or leased and operated by the school are exempt if the net or gross proceeds from the sales are deposited into the school or district lunch or meal fund.
- Sales of **discount cards** by a school to students that enable the students to make purchases from an outside

seller at a discount are exempt. However, if the discount card is sold by the seller offering the discount, then the sale of the card is taxable.

## **Purchases of Construction Materials by Public Schools**

Construction materials purchased by or on behalf of public school systems are exempt from sales tax so long as the construction materials are clearly identified and installed or converted to real property, which is owned by the institution.

## Agencies

The following agencies can be contacted when starting a new business:

Type of Information	Contact
Sales and Use Tax Withholding Tax Cigarette Tax Beer Tax Motor Vehicle Dealer	Utah State Tax Commission 210 N 1950 W SLC, UT 84134 (801) 297-2200 1-800-662-4335 (outside Salt Lake area)
Special Fuel Permit Fleet Vehicle Registration Prorate IFTA	Utah State Tax Commission Motor Carriers 210 N 1950 W SLC, UT 84134-8040 (801) 297-6800
Unemployment Compensation	Dept. of Workforce Services 140 E 300 S, 3rd Floor P.O. Box 45288 SLC, UT 84145-0288 (801) 526-9675 1-800-222-2857
Worker's Compensation	Labor Commission Heber M. Wells Bldg, 3rd Flr. 160 E 300 S SLC, UT 84114-5610 (801) 530-6800 1-800-530-5090
Articles of Incorporation Limited Liability Co. Info. Business Trust Registration Corporation Information DBA Registration Withholding Tax Sales and Use Tax	Department of Commerce Heber M. Wells Bldg, 1st Flr. 160 E 300 S SLC, UT 84114 (801) 530-4849
Federal Withholding Self Employment Tax	Internal Revenue Service 50 South 200 East SLC, Utah 84111 1-800-829-1040
Social Security	Social Security Administration 202 W 400 S SLC, UT 84101 (801) 524-4115 1-800-772-1213
Business License	Contact the city or county where your business is located.

## Forms

TC-51	– Nexus Questionnaire
TC-55A	– Claim for Refund of Motor Vehicle Fees or Sales Tax
TC-61	– Utah Sales and Use Tax Return
TC-61 Schedule PS	– Point of Sale
TC-61 Schedule PD	– Point of Delivery
TC-61DF	– Sales Tax Refund Coupon Booklet for Donated Food
TC-61E	– Municipal Energy Sales and Use Tax

TC-61F	– Tourist Recreation, Cultural & Convention Facilities Return
TC-61FV	– Tourist Recreation, Cultural & Convention Facilities Monthly Return
TC-61N	– Sales Tax Refund Request for Religious or Charitable Organizations
TC-61P	– Instructions for Filing Refund Claims for Sales Tax Paid on Pollution Control Facilities
TC-61Q	– Utah Sales Tax Sourcing Schedule
TC-61T	– Transient Room Tax Return
TC-61W	– Waste Tire Recycling Fee Return
TC-69	– Utah State Business and Tax Registration Application
TC-69B	– Additional Business Locations for an Existing Sales Tax Account
TC-73	– Sales Tax Exemption Contract
TC-85	– Agreement for Remitting through Electronic Funds Transfer (EFT)
TC-160	– Application for Exemption from Sales Tax for Charitable and Religious Institutions
TC-583	– Nonresident Affidavit for Sales Tax Exemption
TC-719	– Sales Tax Exemption Affidavit for Authorized Interstate Carriers
TC-721	– Exemption Certificate
TC-721NR	– Sales Tax Exemption Certificate for Non-Utah Retailers Accepting Delivery of Merchandise in Utah
TC-738	– Petition for Redetermination
TC-757	– Affidavit of Out-of-State Delivery
TC-762	– Lease/Rental Sales Tax Affidavit

## Internet Information

### State of Utah Web Site

[www.utah.gov](http://www.utah.gov)

This site has links to:

- Workforce Services (unemployment)
- Labor (worker's compensation)
- Commerce (corporations, DBA registration)

### Tax Commission Web Site

[www.tax.utah.gov](http://www.tax.utah.gov)

This site has links to:

- Internal Revenue Service
- Utah Counties (business license, property tax)
- Multistate Tax Compact
- Other States' Revenue Departments

This publication is provided for general guidance only. It does not contain all sales or use tax laws or rules. If you need additional information, call (801) 297-2200 or 1-800-662-4335 (outside Salt Lake area).